JTPA

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DIRECTIVE

Date: December 27, 1995

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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: TITLE II COST LIMITATIONS

EXECUTIVE SUMMARY:

<u>Purpose</u>:

This Directive provides guidance to Service Delivery Areas (SDA) to ensure compliance with the cost limitation requirements of the reform amendments to the Job Training Partnership Act (JTPA) for Title II Allocations.

<u>Scope</u>:

This Directive applies to Title II funds allocated to California and to SDAs for Program Year (PY) 1993-94 and thereafter. Specifically, the funds involved are the Title II-A 77 percent adult, Title II-A 5 percent older worker, Title II-B summer youth, and Title II-C 82 percent youth programs.

<u>Effective Date</u>:

This Directive is effective upon release.

REFERENCES:

- Sections 108 (b), 141 (d)(3)(c) and 253 (a)(3) of the Act;
- Final Rule Sections 627.440 and 627.445;
- JTPA Financial Management Technical Assistance Guide (TAG) dated January 1995, (Chapter 15).

STATE-IMPOSED REQUIREMENTS:

This document contains State-imposed requirements that are printed in ***bold, italic*** type.

FILING INSTRUCTIONS:

This Directive supersedes Interim Directive 93-12, Revision 1, dated May 31, 1994.

BACKGROUND:

The Reform Amendments changed the cost categories and the associated minimum and maximum expenditure requirements for cost compliance. The amendments require the tracking of subgrant expenditures against the program year of allocation for the duration of the three-year fund availability (or until the subgrant allocation is fully expended). Final cost compliance calculations, therefore, cannot be assessed until either the three-year period expires or the subgrant allocation is fully expended, whichever comes first.

The major points of note are:

- For Title II-A and Title II-C, the amendments set a 50 percent minimum expenditure (of the funds allocated for a PY) for the Direct Training (DT) category, and a 20 percent maximum for administration expenditures.
- For Title II-B, the reform amendments retained the 15 percent limit on administration expenditures. The training/participant support category has been renamed training/supportive services. No cost criteria are attached to this category. There is no DT cost category in the Title II-B fund source.
- Title II-A and II-C five percent incentive funds received pursuant to Sections 202(c) and 262(c) of the JTPA are not subject to cost limitations criteria.

POLICY AND PROCEDURES:

A. Compliance Calculations

Detailed instructions for calculating cost compliance are based on the DOL's JTPA Financial Management TAG, Chapter 15, Title II Cost Limitations. This Directive incorporates some of the language of and examples presented in the TAG.

B. Compliance Oversight

Although final cost compliance limitations will be calculated at the end of the three years of funding availability (or on full expenditure of the allocation), JTPD will review fiscal reports on a regular basis and inform the SDA of potential problems (as resources permit). This process in no way limits the sole responsibility of the SDA to ensure that its expenditures are in compliance with the cost limitations. If, at the end of the second year of availability of funds, it appears that the SDA may have a problem in meeting its cost category limitation or liability in the third year, a corrective action plan will be required. If the SDA is out of compliance at the end of the three years of availability, final non-compliance findings will be referred to the Compliance Resolution Unit (CRU) of the JTPD for formal resolution of the issue. This action will be subsequent to letters being sent to SDA Administrators for confirmation of the data used in calculating compliance. See Directive 84-13 for procedures relative to debt collection and resolution activities.

LIMITATIONS BY TITLE

The cost limitations described in this section apply separately to funds allocated for programs under Title II-A, II-B, and II-C.

Title II-A and II-C

The proportion of Title II-A funds that are allocated directly to SDAs is 77 percent of the Statewide allocation and for Title II-C is 82 percent of the Statewide allocation***. In addition, the compliance criteria for the portion of the Title II-A funds allocated directly to the State for the 5 percent Older Worker program are passed on to the SDAs.***

- Administration: Not more than 20 percent of the funds allocated to an SDA for any program year shall be expended for administration, in accordance with Section 108(b)(4) of the JTPA.
- DT Services: Not less than 50 percent of the funds allocated to an SDA for any program year shall be expended for DT services.

Title II-B

The entire State-wide allocation of Title II-B funds is allocated to SDAs.

- Administration: Not more than 15 percent of the funds allocated to an SDA for any program year shall be expended for administration, in accordance with Section 253(a)(3) of the JTPA.
- Training and Supportive Services: Not less than 85 percent of the funds allocated to a service delivery shall be expended for training and supportive service costs.

EXCEPTIONS TO THE COST LIMITATION PROVISIONS

Incentive Funds

Incentive funds received by SDAs pursuant to Sections 202(c)(1)(B) and 262(c)(1)(B) of the JTPA (Titles II-A and II-C, respectively) may be combined and accounted for in total. The requirements for the classification of costs by cost category and the cost limitation provisions do not apply to incentive funds [627.440(c)(2)].

Title II-A/II-C Administrative Cost Limitation Exclusion

The following provision amounts to an administrative cost exclusion, applicable to qualifying subrecipient agreements with community-based organizations (CBO) and nonprofit agencies. The effect of this exception is to allow up to an additional 5 percent of the SDA allocation for administration in Title II-A or II-C for each year of appropriation. Since the cost limitation and cost classification requirements do not extend to vendors, this administrative cost exclusion is applicable only for CBOs/nonprofit agencies operating as subrecipients.

Administrative costs incurred by a CBO or private nonprofit service provider shall not be included when determining compliance with the 20 percent administrative cost limitation if:

- Such costs are incurred pursuant to an agreement under which not less than 90 percent of the funds provided to the CBO or nonprofit organization are to be expended for the cost of DT and training-related and supportive services.
- The expenditures of such funds are charged by the SDA to the appropriate cost categories.
- The total administrative expenditures of the SDA, including the administrative expenditures of such CBOs and private nonprofit subrecipients, do not exceed 25 percent of the funds allocated to the SDA for the program year of allocation.
- The SDA is in compliance with the minimum 50 percent requirement for DT expenditures for such program year, except that such minimum requirement shall be reduced by a percentage equal to one-half of the percentage by which the administrative expenditures of the SDA exceed 20 percent of the program year allocation.

Agreements qualify for the administrative cost exclusion only if at least 90 percent of the funds provided to the CBO or nonprofit organization are to be both budgeted and expended for the cost of DT and Training Related and Supportive Services (TRSS). Remember, not only the contract terms but actual expenditures must meet the minimum 90 percent requirement.

An agreement that qualifies at the time of inception, but that is modified during the life of the agreement to budget less than 90 percent for DT and TRSS costs, will be disqualified from the administrative cost exclusion. As a result, all administrative costs incurred during the life of the agreement must be included when determining the SDA's compliance with the administrative cost limitation requirements. Separately negotiated agreements, whose purpose is to split original agreement costs to achieve the administrative cost exclusion, are not allowable.

For multi-year agreements, actual expenditures must conform to the 90 percent rule for the funding provided from each year of appropriation. This is necessary because the additional administrative costs above 20 percent must be associated with a specific year of appropriation. For example, for a contract of $100,000 funded with $60,000 in PY 1993 funds and $40,000 in PY 94 funds, each of the PY 1993 and PY 1994 funded segments must meet the 90 percent requirement.

The 50 percent minimum requirement for DT expenditures, including DT expenditures of such CBOs and private nonprofit service providers, is reduced, for funds allocated to the SDA for the program year, by one-half of the percentage by which the administrative expenditures of the SDA exceed 20 percent up to the maximum of 25 percent. The examples provided in this section offer additional guidance.

ADJUSTMENTS TO ALLOCATIONS

The cost limitation provisions apply to net allocations remaining after adjusting for the effects of reallocation, and transfers between titles, as provided in Section 108(b)(6).

MEASURING COMPLIANCE

Expenditures must be reported quarterly by title, year of appropriation, and cost category until the final expenditure report is submitted. Final compliance with grantee cost limitations will be determined after the final expenditure report is submitted. The JTPD will not take formal action against an entity for being out of compliance with the Title II cost limitation requirements until after the three-year period of fund availability has expired.

Cost Limitations Expressed As Maximums

Title II programs have a maximum Administrative cost limitation of 20 percent of the Title II-A or II-C allocation (not including exclusions) and 15 percent of the Title II-B allocation. Whenever a maximum cost limit is exceeded, a clear violation of the Act has occurred, and the only appropriate sanction is the disallowance of the amount expended in excess of the limitation.

> Illustration: An SDA has a Title II-A allocation of $1,000,000 with an Administrative cost limitation of 20 percent or $200,000 and actual Administrative expenditures of $230,000. This is a violation of the Act. The sanction is the disallowance of the $30,000 excess expenditure in the Administrative cost category.

Cost Limitations Expressed As Minimums

The Act requires that a minimum of 50 percent of the Titles II-A or II-C SDA allocation must be spent on DT, and a minimum of 85 percent of the Title II-B allocation must be spent on TRSS. Since DT expenditures for Titles II-A and II-C must be at least 50 percent, the converse is also true that no more than 50 percent of the allocation may be spent on the combined amount of Administration and TRSS. When the combined expenditures for Administration and TRSS exceeds 50 percent of the allocation, a violation of the Act has occurred: it is no longer possible to meet the requirement that a minimum of 50 percent of the allocation be spent on DT. The appropriate sanction is to disallow the amount by which expenditures for Administration and TRSS exceed 50 percent of the allocation.

> Illustration: The Title II-A allocation is $1,000,000 and expenditures are $200,000 in Administration and $325,000 in TRSS (totaling $525,000), and $475,000 in DT. The combined amount of expenditures in Administration and TRSS exceeds the limitation by $25,000, which is disallowed because that over-expenditure causes noncompliance with the 50 percent DT requirement.

In the case above, the allocation was fully expended. No funds were available to increase DT expenditures up to the 50 percent minimum. Therefore, the only appropriate sanction is to disallow the excess costs that were spent for Administration and TRSS instead of for DT.

Effect of Lapsed Funds on Cost Compliance

If an SDA has not fully expended a program year's allocation at the end of the three-year funding period, the appropriate sanctions for non-compliance with cost limitations may be more difficult to determine. As illustrated above, when there is an over-expenditure of the 20 percent Administration limitation, or if the combined Administration and TRSS expenditures exceed 50 percent, the violation must result in the disallowance of the excess expenditures. The difficulty arises when the DT minimum is not met, but there has been no violation of the Administrative maximum *or* the combined total of Administration and TRSS does not exceed 50 percent of the allocation.

> Illustration: The SDA's Title II-A allocation is $1,000,000 and expenditures are $200,000 in Administration and $270,000 in TRSS (totaling $470,000), and $450,000 in DT. Only $920,000 of the total allocation was spent, but a violation has occurred because the 50 percent minimum DT requirement was not met.

In this case, the SDA has underspent DT by $50,000. It becomes more complicated to identify the appropriate sanction when an action has not been taken, such as in this instance of not having spent sufficient funds for DT activities. It would not be appropriate to disallow the $50,000 shortfall since one cannot disallow costs that have not been spent. The return of the unexpended allocation is also not an appropriate remedy for the underexpenditure of DT funds, because the return would be required regardless of whether or not a cost limitation violation occurred. The law requires the Governor to take action to remedy the violation; however, this need not result in any disallowed costs. Appropriate remedies will be decided by the CRU on a case by case basis.

COST LIMITATIONS APPLIED TO SPECIFIC EXAMPLES

Use the following examples from the Financial Management TAG as guidance to help determine the cause and amount of unallowable expenditures in specific situations where cost limitations were not met.

1. Fifty Percent DT Limitation Not Met

The SDA has a PY 1993 allocation of $1.2 million. At the end of the three-year funding period, the SDA has total reported JTPA expenditures of $1.2 million: $264,000 expended for administration and $552,000 expended for DT services.

	DT	TRSS	Admin.	Total
Cost Limits per Initial Alloc.	$600,000	N/A	$240,000	$1,200,000
Expenditures	$552,000	$384,000	$264,000	$1,200,000
Percentages	46%	32%	22%	100%
Underexpended	$ 48,000			
Overexpended		$ 24,000	$24,000	
Potential Disallowance				$ 48,000

The SDA was required to spend a minimum of 50 percent on DT. Conversely, the SDA can only spend 50 percent, or $600,000, on the costs of Administration and TRSS combined. Since the SDA spent only $552,000 or 46 percent on DT, the next computation would be to determine if more than 50 percent or $600,000 has been spent on the costs of Administration and TRSS. In this example, the combined costs also exceed the 50 percent by $48,000. This would be the amount subject to disallowance as it was not spent in accordance with the Act. The Administration cost limit was exceeded by 2 percent or $24,000. ***The remaining disallowed costs will be attributed to the Administration cost category.***

2. Lapse of Funds Due to Underexpenditure

The SDA has a PY 1993 allocation of $1.2 million. At the end of the three-year funding period, the SDA has total reported JTPA expenditures of $1 million: $220,000 expended for administration and $600,000 expended for DT services. The unexpended balance of $200,000 is returned to DOL.

	DT	TRSS	Admin.	Total
Cost Limits per Initial Alloc.	$600,000	N/A	$240,000	$1,200,000
Expenditures	$600,000	$180,000	$220,000	$1,000,000
Percentages	50%	15%	18.3%	

In this example, the minimum 50 percent DT expenditure requirement has been met, and the 20 percent Administrative cap has not been exceeded. Therefore, despite the lapse of funds at the end of the three-year period, no other provisions of the statute or regulations have been violated. Therefore no unallowable costs have been incurred.

3. Fifty Percent DT Limitation Not Met, AND Lapsed Funds Due to Underexpenditure

The SDA has a PY 1993 allocation of $1 million. At the end of the three-year funding period, the SDA has total JTPA expenditures of $920,000: $200,000 expended for Administration, $270,000 for TRSS, and $450,000 expended for DT. $80,000 will be returned to the Federal government because it was not expended during the three year period of availability. **The lapse of funds due to underexpenditure when combined with the violation of the DT expenditure requirement can pose difficulty in determining appropriate corrective actions.**

	DT	TRSS	Admin.	Total
Cost Limits per Initial Alloc.	$500,000	N/A	$200,000	$1,000,000
Expenditures	$450,000	$270,000	$200,000	$ 920,000
Percentages	45%	27%	20%	92%
Underexpenditures	$ 50,000			$ 80,000

In this example, the only cost limitation violation is the underexpenditure of DT. The Administration limitation has not been exceeded, and the combined total of Administration and TRSS does not exceed 50 percent of the allocation. The return of the $80,000 in unexpended funds is not a remedy for the underexpenditure of DT. However, the law requires the Governor to take some action or sanction regarding the violation of the DT requirement. ***Since "lapsed" Title II funds are rare, the CRU will decide the resolution of this issue on a case by case basis, if it occurs.***

4. Administrative Cost Exclusions

The impact of qualifying agreements with CBOs and the determination of cost limitation compliance are explained further in the following examples. For this example, assume that the Title II-A allocation for PY 1993 is $2.5 million and the amount expended for administration by SDA administrative entity is $450,000.

Budgeted in CBO Subrecipient Agreements			
Subrecipient	Budget	DT	Administration
No. 1	$650,000	$585,000 (90%)	$65,000
No. 2	$240,000	$216,000 (90%)	$24,000

Expenditures in CBO Subrecipient Agreements			
Subrecipient	Expenditures	DT	Administration
No. 1	$644,000	$586,000 (91%)	$53,000
No. 2	$203,000	$180,000 (89%)	$23,000

Administrative costs for Subrecipient No. 1 ($58,000) qualify for the exclusion. The requirement to expend 90 percent of the funds for DT and TRSS was not met by Subrecipient No. 2. The Administrative costs incurred by Subrecipient No. 2 must be included when determining SDA compliance with the 20 percent Administrative cost limitation. Compliance is determined as follows:

Allocation <u>$2.5 million</u>	20% Administrative Cap $500,000	25% Administrative Cap $625,000
Total Admin. costs incurred	$650,000	$65,000
Admin. Costs that apply to the SDA's 20% Admin. Limit	$240,000	$24,000

In this example, the Administrative cost limitations have been met. Total actual Administrative costs incurred do not exceed 25 percent of the SDA allocation for the program year, and the total amount of Administrative costs that apply to the SDA's 20 percent limitation is below the 20 percent maximum.

5. Total Administrative Costs in Excess of 25 Percent

The SDA allocation for the program year is $2 million. The SDA administrative entity spent $380,000 (19 percent) of the allocation for Administration. The administrative entity used two nonprofit subrecipients to deliver JTPA programs during the year. The contracts written between the administrative entity and the non-profits were in compliance with the provision requiring that 90 percent of the funds be contracted for and spent on DT and TRSS. Expenditures for the program year allocation are as follows:

	Total Expended	Spent for Administration
Administrative Entity	$ 700,000	$380,000
Subrecipient No. 1	$ 500,000	$ 50,000
Subrecipient No. 2	$ 800,000	$ 80,000
TOTAL	$2,000,000	$510,000
20% Admin. Cost Limit (20% x $2,000,000)		$400,000
25% Admin. Cap with Qualifying Exclusions		$500,000
Total Administrative costs incurred		$510,000
Disallowance		$ 10,000

In this example, $10,000 would be disallowed because total Administrative costs exceed the 25 percent maximum allowable after including the qualifying exclusions.

6. Effects on 50 Percent DT Requirement

When an SDA is permitted to exceed the 20 percent Administrative cost limitation because of qualifying exclusions, the 50 percent minimum limitation for DT expenditures may be adjusted downward by one-half of 1 percent for each 1 percent of additional Administrative costs above 20 percent that are allowed due to qualifying exclusions. In the following example, the SDA spent its entire allocation of $2 million and had qualifying exclusions for all Administrative costs incurred in excess of 20 percent.

25% Admin. Cap with Qualifying Exclusions	$ 500,000
Total Administrative Expenditures	$ 418,000
20% Admin. Limit without Qualifying Exclusions	$ 400,000
Amount of Qualifying Exclusions above the 20% Limit	$ 18,000
Percent of Actual Administrative Expenditures above the 20% Limit [(418,000 / 2,000,000 = 20.9%) - 20%]	0.9%
Revised DT Min. % [50% - (0.9% / 2 (e.g. 0.45%))]	49.55%
Original DT Minimum (2,000,000 x.50)	$1,000,000
Revised DT Minimum (2,000,000 x .4955)	$ 991,000

The minimum 50 percent DT requirement is reduced by one-half of the administrative cost percentage over 20 percent, to a revised level of $991,000.

APPLICABLE TERMS

- SDA Allocations: The "funds allocated to a Service Delivery Area" means the funds allocated to an SDA for a program year, as adjusted for reallocations and reallotments under section 109(a) and for transfers of funds under Sections 206, 256, and 266. Compliance with cost limitations is measured against the net allocation remaining after adjusting for the effects of reallocation, and transfers between titles.

- Year of Appropriation: The year the funds were appropriated by the Congress. For example, PY 1993 funds were appropriated by Congress in PY 1993 and will always remain identified as PY 1993 appropriated funds. Funds moved by reobligation, reallocation, and transfer, or the year in which the funds were spent, does not affect the year of appropriation designation.

ACTION:

The SDA is solely responsible for ensuring its compliance with the cost limitations in the Act and Final Rule. SDAs need to establish systems for accurate tracking and reporting of expenditures by cost categories, by the year of allocation, that include frequent review of expenditures to analyze progress in meeting the DT liability, and necessary steps (if any) to avoid administration over-expenditures.

INQUIRIES:

If you have any questions about this Directive, please call John Ives at (916) 654-8281, or your Program Manager.

/S/ VICKI J. JOHNSRUD
Acting Chief